RESEARCH ETHICS

Ethics for embryos

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This paper responds to DW Brock's technically strong case for the use of human embryonic stem cells in medical research. His main issue in this context is the question of whether it is moral to destroy viable human embryos. He offers a number of reasons to support his view that it is moral to destroy them, but his use of conceptual arguments is not adequate to secure his position. The purpose and scope of this paper is wholly concerned with his arguments rather than with the conclusion that it is justifiable to destroy human embryos. The author proceeds through his variety of arguments and offers reasons for rejecting them. The author concludes that Brock has not shown that it is moral to destroy viable human embryos.

ETHICS FOR EMBRYOS

A traditional context for a reference to moral standards is an exercise of state power through military, legal, economic forms of coercion or vested interests of organisations. Such an ethical appeal—for example, against the law or the working of the influential organisation—is often made on behalf of those without power; it is an appeal to humanity, to the broader context, for powerful groups to consider other claims in their ascendancy. The strong man's preferential system of law is the political prize for such dominant forces, and a consequence of this is that the language of morality is often applied by the powerful to the standards they support. We do not necessarily see a lack of sincerity in this cloaking of power with concepts of the right and the just. ''With concepts of right and justice''? The idea of clear thinking often adopted by the powerful is taken from their own perspective and understanding. In this situation, we can see that improvements to such perspectives of the powerful need not be derived from an argued opposition to their policies. It may be that the explanation of the privileges held by the strong is held in abeyance by the questioner whose concern may be only with the implicit justification for their actions: institutional thinking may be tested by moral concerns.

An interesting example of thinking representing vested interests is seen in Brock's paper,[1] which seeks to broaden ''support for the ethical acceptability of HESC research''. Human embryonic stem cell (HESC) research promises significant benefits for human life, but it is helpful to know whether law or public opinion supports it, and also whether morality supports it. Brock does not rely on explicit utilitarian arguments, and it would not be sufficient for ethical acceptability to show that public opinion or the law was on the side of certain medical research. Moral argument need not rely on such forces: in some ways it is weaker, but in others more demanding. For example, Brock informs us that ''for each embryo that is born alive from normal sexual reproduction, at least three are created who will die before birth. Thus, three embryos are sacrificed for each that is born''. But the use of the concept of sacrifice here is clearly a misnomer. We can see that Brock wishes to prepare us to accept the ''sacrifice'' of ''surplus'' embryos from in vitro fertilisation, and that such acceptance would be quite natural. We may notice, too, that Brock's anthropomorphic understanding of the situation in the womb does not accurately represent the relevant elements or the relationships between them. He does not explain the mechanism of the alleged sacrifice or its context but concludes that the person who believes the embryo is a person ''should reject the practice of sexual reproduction …''. On the premiss that Brock accepts that an embryo is the start of a human life, his conclusion does not follow, for the length of a human life is often in the hands of physical nature and outside the power of human intervention. If there were a way of avoiding such consequences of reproduction, that would be a different matter. Morality is concerned with what people are in control of or responsible for; they are not in control of such physical events and so are not morally responsible for them. Sexual reproduction is safe from Brock's argument.

UNDERSTANDING THE NATURE OF EMBRYOS

In less medically sophisticated times, the early phase of the human life cycle was not known. One imagines the potential parents in those far-off days were in some way aware of changes in the body which were linked with social expressions of caring for the person becoming a mother and that when the baby was delivered it was accepted as a human being in the tribe even if political respect depended on later prowess. For contemporary society, the matter is rather more confused: the early stages of the life of the person are so unlike a person and are so numerous, so fragile, so cheap. If human embryos were really rare, it is likely that the language describing them would change.

I think TH Huxley suggested the idea that humans would find it rather easy to be friendly to an amoeba if it were the size of a dog. Is it a failure of imagination that the human embryo is often not seen as the start of a person? Certainly we can see

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Abbreviation: HESC, human embryonic stem cell

an influence from the medical description: it is not a pre-person, it is a human embryo; that is, the embryo or early stage of the human animal seems to be regarded as biologically but not socially human. The time difference between the early, undeveloped, and later, developed, stages of the person is taken to indicate quite separate things within a continuous development. We do not understand the phenomenon of growth: if the embryo changed into the mature person in one minute, the embryo would be regarded as a full human being. The language used to describe the embryo changes its status, and as a zygote the embryo's importance is emotionally reduced. When the Jews were described as subhuman, it was easier for the Nazis to distance themselves from them. Similarly, when we describe the early stages of life as zygote, blastomere, blastocyst, the elements are not emotionally, clearly distinguished from things like candlelight and fermented grape juice. One might think that human embryos do not have any real part in the making of the person.

Brock asserts that ''people do not view embryos as morally comparable to born human beings or persons'' and uses the illustration of ''a fire in the fertility lab'' in which ''one could save a tray of 100 surplus embryos or one eight year old child, but not both'' to conclude that ''virtually everyone would save the child''. The question, of course, is, what is it moral to do? A poll of people on what they would do if they found £1 million may not be a good guide to what is moral. The example of the laboratory seems to confuse what is sometimes called the problem with the solution—that is, current attitudes need not be identified with moral standards. Brock admires ''rational argument'' and moral views which are ''internally consistent'', so it is a puzzle why he seems to believe that general polls are likely to support or clarify the idea of moral standards. There is no necessity for congruence between public opinion, law and moral standards. On the question of people's rarely grieving over destroyed embryos in treatments using in vitro fertilisation, ''in the way the death of a person, or even a fetus, is grieved over'', one sees that the human capacity for and form of grief have developed over millennia: one would not normally expect that recently generated intellectual awareness of generally hidden processes would evoke the same emotional responses in these different cases.

Opposing the President's Council on Bioethics,[2] which claims the embryo is '''one of us,' a member of the human family'', Brock says, ''the moral status of human persons does not derive simply from their species membership. Rather, it must be some properties of humans …'' Interestingly, he does not seek to offer arguments to support the idea that properties of the person should have precedence over those of the embryo. He considers embryos as improperly claiming moral status. His argument is that to give special consideration to embryos would be like giving it to ''racists' or sexists' claims of special moral status or superiority …''. It is fairly clear that his argument fails: first, the embryo is not claiming superiority, one imagines it hopes essentially to gain equality with born persons; second, to conceptually define certain properties of born persons—for example, consciousness—in order to exclude embryos, begs the question: the definition refers to certain properties associated with born persons but perhaps not with embryos. It is the conceptual definition which seems to exclude embryos from the concept of the person; if a more pointedly historical definition were used, one could conceptually link the embryonic stage to the mature stage—for example, if a person were defined as a former embryo having over time and with development acquired certain properties. This definition would in practice be indistinguishable from the conceptual definition of a person as having certain properties.

Brock offers some ''fanciful examples'' to support his exclusion of embryos from the human family. For example, supposing that after an environmental disaster, some women give birth to kittens which develop into what he calls normal cats, though the cats would certainly not be normal. He thinks ''they would not, nor should they properly be, treated as humans with the moral status of normal humans. Instead, they would properly be treated as cats''. Given the assumption that properties of the mature organism settle the question, the main difficulty with this example is that Brock applies certain traditional moral standards to entirely different and unknown future circumstances. Within the limited context, his prescriptions may be right or wrong; we cannot conclude from his sketchy example anything relevant to an assessment of the rightness or wrongness of one side of a current moral debate. For example, what if the kittens quickly walked on their hind legs or learnt to speak a human language well?

Brock's second example in this context of environmental disasters leads him to deny that the potentiality of the embryo to develop into the mature organism provides it with its moral status. But because his examples confuse legal rights or physical competencies with moral rights, they do not undermine the moral status of the embryo. Moral rights are bestowed on something or someone; this is not entirely a scientific enterprise, it is also an emotional or social one. Brock's argument claims to focus on the embryo's ''intrinsic value'', but we have not moved from his earlier assumption that certain properties determine moral status. In other words, what he calls the embryo's ''intermediate moral status'' is insufficient to grant it full moral status. His initial valuation of the embryo is used in a circular argument to build a house of cards. Brock believes that ''[m]oral rights in general have this character—they are grounded in the actual, not just potential, properties of a being'', but this general proposition does not offer any guidance on how to treat something. On this basis, one could positively care for the human embryo or kill mature persons who have the potential to save the world.

EMBRYOS AND PERSONS

When considering stem cell nuclear transfer with all its difficulties, Brock resorts to a tautology to suggest that such research is unlikely to develop from the methods of human embryonic stem cell research. Namely, he argues that ''[i]f these scientists are correct … [a]nd if cloned human embryos lack any significant potential to develop …, then the putative slippery slope from research to reproductive cloning … is not slippery at all''. A hundred years ago, stem cell research was science fiction; we cannot halt scientific knowledge with tautologies. Those who fear reproductive cloning have not been shown to be unnecessarily anxious about the effects of other stem cell research on it.

It may be unclear whether Brock developed his arguments first or his priority was to further medical research, but we can see that he is wedded to the idea of the mature organism deserving care while care is denied to the immature. He relies on the differences between their properties to justify his position. The idea of the continuity of development is thus something he has to address. He accepts continuous and incremental development and forms an analogy with it's being right to allow 18-year-olds the vote while denying the right to 5-year-olds, because even though there may be significant individual differences, the 5-year-old is so unlike the 18-year-old in political judgement that the distinction is justified. But we can see that chronological age may not be a good guide to identifying incremental development or competence at particular stages; and the primitive properties of the embryo may be at least a partial basis for its later heightened competence at particular earlier or later stages in its development.

In connection with the analogy with voting, we are told that blastocysts are kept alive up to 14 days for research, and that

this ''may be early enough to be sure that the embryo at this blastocyst stage still lacks any properties … that would make it seriously wrong to kill it''. Essentially, at this point Brocks seeks to show significant differences between two well-separated parts of a developing continuum in order to justify destroying the earlier part. One sees Brock's uncertainty here with his ''it may be early enough'' and his ''seriously wrong'', and part of his uncertainty may be due to the fact that the embryo is necessary for the adult and that its competence is different from that of the adult. He may have a growing awareness that his method of attributing moral status—that is, applying to the embryo the criterion of expressing the character or competence of the adult—is as implausible as asking the adult to play the part of the embryo. It may now be clear that isolating well-separated stages of an incremental development does not justify applying care to the one and denying it to the other. At this rather late stage, one may notice that if Brock had chosen another sort of example of competence at different stages in a development, instead of political judgment, he might have come to give embryos a little more respect. For example, if he had considered whether a 5-year-old would be more likely to learn a foreign language better than an 18-year-old would.

Brock's idea of intermediate moral status reflects his judgement about how to treat things, but the reference to status takes us back to the definition of person in terms of certain properties, such as consciousness. In other words, he has already made the decision to treat embryos in certain ways and makes a gesture to scientific respectability by relying on the embryo's physical makeup in order to appear objective in his judgement. Brock believes that things with intermediate moral status, such as embryos or dogs, may be destroyed for serious pursuits but not for trivial ones such as cosmetic research. He compares embryos and dogs as having ''special respect … that is not incompatible with creating, using and destroying them for medical research …''. The President's Council on Bioethics referred to embryos as ''deserving of serious moral respect'', and my old-fashioned dictionary defines the relevant aspect of respect as ''avoid degrading or insulting or injuring or interfering with …''. Brock's antiphrastic interpretation of ''respect'' seems to be an instance of what C L Stevenson called ''persuasive definitions'',[3] that is, an attempted hijacking of the concept. Traditionally, soldiers respect their enemies—that is, they admire them or take their competence seriously—and then they seek to kill them. What Brock is not doing is taking the properties and competence of the embryo seriously.

EMBRYONIC MORALITY

Brock considers whether ''to create embryos with the sole intention of using them in research in ways that will lead to their destruction is to treat them instrumentally, merely as a means, to others' benefit''. He thinks of embryos as similar to live tissue—that is, without ''interests or rights that can be violated by that use'', so he believes that Kant's injunction against rational beings being treated merely as means does not apply to embryos. Given Brock's apparent regard for Kant's authority and view that one should ''[a]ct only on that maxim through which you can at the same time will that it should become a universal law'', one wonders what Brock would say about Kant's view that the moral law, unlike political law, is universal: that is, if one wishes to destroy human embryos because of their lack of interests or rights, then one should apply that to all embryos. On one interpretation of this, one may be advocating one's own tardy demise. Otherwise, one supports some sort of tribalism, rather like racism or sexism, which seeks to protect the perceived interests of one's group.

Brock points out that in many modern societies, in vitro fertilisation for reproductive purposes is part of public policy. Given this, he asks, regarding the providers of unused embryos, ''why cannot they donate the embryo to researchers who will destroy it using it for research'', for embryos have only what he calls intermediate moral status. But on Brock's arguments, the alleged morality of such providers would not be well defended. What we have seen with Brock in his programme to defend HESC research is that he has deliberately set the bar higher for the bigger prize of moral acceptability. But his view of morality on this question seems to be formed from an acceptance of the powerful institution of medical research, which seeks to further its cause through influencing public opinion, law and public policy. It is generally recognised that in the political cauldron where law is developed, the wishes of stakeholders have great sway, but it is equally acknowledged that in moral issues, particular desires need not be part of a moral stance.

One sees that the mature HESC researcher uses retrospective valuation as the basis of a ''sacrifice'' of human embryos currently available to him. One has to ask whether an imaginary prospective valuation would be similarly welcomed—that is, would the researcher accept the benefits of HESC research if he were himself the sacrificed embryo? Would he still think that the price of the benefit is a bargain for humanity? When moral arguments about the value of the human embryo are developed, a helpful idea in furthering these is the exclusion of particular vested interests, including one's own. The moral view seeks an impartial assessment of human and other affairs which allows the realisation of moral concepts such as justice or right action. This is not merely a concern with the efficient or effective functioning of medical research; it is more a consideration of the wider implications for human life; it is an attempt by the human spirit to see the real value of human activities.

Historically, we have seen that certain medical research studies have had clear intrinsic value in their sympathetic treatment and use of methods with acceptable risk, where the patient is harmed; whereas other types have not, even if they have offered utilitarian benefits where the coerced patient provides an organ for transplantation to benefit another. The context is primarily that of an inquiry into the intrinsic value of particular medical research. The question concerns the virtue of destroying human embryos in medical research; and the idea of moral duty is available to us to consider it. Brock has aimed to show ''the ethical acceptability of HESC research'' regardless of its perceived utilitarian benefits, and one has to doubt that he has succeeded in showing that it is virtuous to destroy human embryos in medical research.

Competing interests: None

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